



**WRITTEN TESTIMONY OF DIRECT ENERGY**

**BEFORE THE**

**CONNECTICUT GENERAL ASSEMBLY**

**JOINT COMMITTEE ON ENERGY AND TECHNOLOGY**

**PUBLIC HEARING - Tuesday, February 26, 2019**

**Raised Bill No. 7155- An Act Concerning Consumer Protections for  
Customers of Electric Suppliers**

On behalf of Direct Energy, one of the largest retail electricity & natural gas suppliers and energy-related services companies in North America<sup>1</sup>, I appreciate the opportunity to testify on the above-referenced bill and to submit these written comments to the Joint Committee on Energy and Technology (“Committee”) for its review and consideration.

**Introduction**

Raised Bill No. 7155, House Bill No. 6239, *An Act Concerning Consumer Protections for Customers of Electric Suppliers*, would impose several incremental requirements on electric suppliers marketing to customers in Connecticut, including requirements to:

- Record all telephone calls with customers that might relate in any way to sales activities;
- Record all “face-to-face marketing interactions with a potential customer;”
- Conduct background checks on all door-to-door marketers acting on a supplier’s behalf;

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<sup>1</sup> Direct Energy is wholly owned by United Kingdom-based Centrica plc, one of the world’s leading integrated energy companies that operates in seven countries with more than 37,000 employees worldwide. With nearly five million customers, Direct Energy is one of the largest providers of electricity, natural gas, renewable energy and related services in North America.

- Beginning every telesales or in-person sales call with a statement that includes the following: (A) The name of the electric supplier conducting the call; (B) that the electric supplier is not affiliated with any state program and no state program encourages Connecticut residents to obtain an electric supplier; (C) that the electric supplier is calling the customer or potential customer to market or sell electric supply service to the customer or potential customer and if the customer or potential customer assents, the telesales call or face-to-face marketing will result in the customer or potential customer immediately entering into a contract with the electric supplier; (D) that such electric supplier does not represent an electric distribution company and that electric distribution companies do not encourage Connecticut residents to obtain an electric supplier; and (E) what the standard service rate is on the date of the telesales call or face-to-face marketing and that the standard service rate is fixed, not variable.
- Forbid sales representatives from asking for a customer's account number unless and until the customer has assented to contract with the supplier for a specified rate;
- Forbid sales representatives from staying on the line once a third-party verification call begins; and
- Process enrollments and re-enrollments and submit them to the utility within five days of the customer consenting to enroll or have the enrollment invalidated.

The bill would also give the PURA authority to award restitution to customers where a supplier has been found to have violated a statute or regulation and would require that any customer assignment or transfer of customers be approved by PURA before the assignment or transfer could be consummated.

Direct Energy supports giving the PURA authority to award restitution to customers of suppliers found to have violated a regulation or statute and oppose the other provisions of the bill.

### **RESTITUTION SHOULD BE ONE OF THE REMEDIES AVAILABLE TO PURA**

In Direct Energy's experience, the great majority of customer complaints are resolved well short of the need for the PURA to take any official action. Settled complaints frequently involve some kind of financial remuneration to customers where the supplier may have made a mistake that placed the customer in worse position than he or she would have been in otherwise. We acknowledge, however, that not all complaints are resolved in such an amicable fashion. Some may need to be adjudicated by the PURA and where PURA finds a violation of a statute or regulation within its jurisdiction, it should be able to award restitution to the customer as well as impose a fine on the supplier.

### **ADDITIONAL REQUIREMENTS THAT MAKE IT HARDER FOR CUSTOMERS TO BUY POWER SHOULD BE DISFAVORED.**

Connecticut already has one of the most heavily regulated retail markets among the states that allow retail competition. Before imposing more requirements on the retail industry, we would encourage the Legislature to look for clear evidence that the incremental measures proposed will improve customers' experiences and the value they get from the market rather than simply making it harder to buy and more expensive to sell electricity. With two exceptions, the measures proposed in the bill fail this test.

**Direct Energy supports mandatory background checks and requiring that sales people not be on a third-party verification call once that call begins.**

These are two reasonable measures that, in our view, should already be part of a supplier's best practices with respect to certain sales channels, especially background checks for any sales representative who might have direct, in-person contact with a potential customer. The requirement that the sales representative drop off any third-party verification call once it begins is also reasonable.

**There is no evidence that recording calls will improve the customer's experience.** Requiring that all telesales and in-person sales calls be recorded would be intrusive for customers and expensive for suppliers. The combination of these two impacts would make the overall customer experience worse in Connecticut rather than better. It is possible that in some circumstances the availability of a recording might resolve a dispute between a customer and a supplier about what happened during a particular sales call, but we believe that the small number of instances in which this might happen does not outweigh the overall burden on customers of submitting to being recorded in the course of what they are likely to see as a routine sales call. We believe the PURA is already in a strong position to fashion a remedy that is both more effective and more limited by making it clear that where there is a dispute between a customer and a supplier about what may have happened during a sales call, the burden is on the supplier to produce exculpatory evidence.

Moreover, we note that the language of the bill as currently proposed would have it apply to customers in all sectors of the market, including commercial and industrial customers. Direct Energy has a large number of commercial and industrial customers in Connecticut and other restructured states and we have seen no evidence of a need for more stringent sales and

marketing requirements for this sector. For these business customers, who have shown a strong preference for competitive supply, measures such as these that increase costs for suppliers will serve only to increase the costs of power for those businesses as well, with no corresponding benefit.

**Requiring a prescriptive statement at the beginning of every sales encounter will serve only to make those encounters unpleasant for customers.** Requiring that sales representatives for electric suppliers make five separate statements related to electric service, including a disclosure of the then-current standard service rate, before engaging the customer on what the sales representative is actually selling will almost certainly make it more unpleasant to buy from a competitive entity and more expensive for those entities to sell, thus driving down overall sales. This approach is a poor substitute for getting more insight into just what is going on in the market when residential customers interact with sales people and finding measures narrowly tailored to improve those interactions. It is difficult to imagine similar measures being proposed in other industries, especially the requirement that suppliers state the price of utility standard service, which is the dominant player in the market and which already enjoys the advantage of being affiliated with the monopoly delivery company. Direct Energy encourages the Legislature to consider more structural changes to the market that would be more likely to lead to improvements in the customer experience without simply imposing more requirements and restrictions on the sales experience for customers.

**Further restricting access to a customer's account number would exacerbate one of the major flaws in the current market structure.** The requirement that customers provide their utility account number in order to switch electric suppliers is one of the fundamental flaws in the market. That number appears only on the customer's utility bill, which is rarely located

anywhere but the customer's home. This means that the shopping experience must be conducted almost completely in the customer's home, whether by means of an in-person sales call, an outbound telesales call, direct mail piece leading to an inbound telephone call, or a web-based sale conducted in the customer's dwelling. Electric customers thus can't have the same kind of customer experience they have for essentially everything else they buy. They can't go to the mall, or stop by a kiosk at an airport or another retail store. Concerns that unscrupulous sellers can take a customer's account number and switch them without authorization are fair, but it would be far better to impose sufficiently draconian penalties on suppliers who engage in such activities than to actually increase the burden on customers who want to explore their competitive options in the market. The proposed measure would mean that sales representatives could not ask to see a customer's bill during the sales process even though the bill provides important usage information that would be helpful in guiding the customer to the right product for him or her.

**The five calendar day requirement for submitting enrollments is unreasonable.** The origin of this proposal is unclear but to Direct Energy's knowledge there is no systemic problem related to suppliers holding customer enrollments. We see no incentive for suppliers to do anything but get enrollments with all due haste. Moreover, given the way the electronic data exchange system works, it is possible for enrollments submitted in less than five days to miss "the window" and get pushed to the next month, and for enrollments submitted in more than five days to make it through "the window" and thus be processed that month. Thus, a customer's clearly stated desire to switch could be nullified in circumstances that would have had no impact whatsoever on that customer's experience.

**Requiring the PURA to review and approve the transfer or assignment of customers would only harm customers.** There is no question that under current law the PURA must review and approve the transfer of a supplier's license. This step must accompany the sale of a supplier at the corporate entity level, where the license is one of the assets that goes with the business. In many other transactions, however, one supplier may acquire the right to serve a group of customers from another supplier, in which case the customer relationship is transferred according to the terms of the underlying customer agreements. This means that the acquiring supplier must serve the acquired customers on the same terms as the selling supplier. The existing contract protects the customer to the same degree with the acquiring supplier as with the selling supplier. Giving the PURA the ability to slow down or even halt such transfers serves no purpose other than to increase the possibility of a supplier failing in circumstances where customers would lose all benefit of their contracts and fall back to standard service.

**DIRECT ENERGY ENCOURAGES THE LEGISLATURE TO CONSIDER MEASURES THAT WOULD IMPROVE THE MARKET FOR CUSTOMERS.**

Rather than pursue incremental requirements that would make it harder for customers to buy electricity and harder for suppliers to sell, Direct Energy believes making some basic changes in the market structure would both improve the customer experience and decrease some of the problematical behavior seen in the market today. These measures include:

- **Creating a way for customers to enroll without having their utility bill** – As noted above, suppliers use sales channels like door-to-door and outbound telemarketing because they must reach potential customers at home where their utility bill is located. This deprives customers of the kind of experiences they expect for retail purchases and drives some of the negative behavior seen in current sales and marketing activities by

some suppliers. There are straightforward ways for customers to access information that is unique to their utility account without having the account number itself, which would allow suppliers to use more traditional retail channels, improving the overall customer experience and decreasing the incentives to use channels such as door-to-door.

- **Broad deployment of smart meters would lead to demand reduction and encourage innovation** – The lack of widespread access to smart meters, which give both real-time consumption data and two-way communication capabilities, limits the ability of suppliers to bring innovative products and services to residential customers in Connecticut. The broad availability of such products and services would provide greater value to customers and make the overall desirability of a competitive market more obvious to all stakeholder.
- **Make standard service the supplier of last resort, not first resort** – Every year, 10 to 15 percent of residential customers in a typical utility service territory move, either within the service territory, from one territory to another, or into the state from outside it. Under the current practice, these customers are automatically placed on standard service, creating a never-ending replenishment of the standard service pool while also eroding the pool of those on competitive supply. Requiring new and moving customers to affirmatively choose from among their various options, in a competitively neutral way, would go a long way toward decreasing the incentives for the kinds of sales channels in which we see the most problems.
- **End the subsidies for standard service** – While United Illuminating includes some allocation of retail costs such as billing, customer service, overhead, facilities, and executive salaries, to standard service, to our knowledge Eversource provides no such allocation. This means that some of the costs to serve standard service customers remain



embedded in delivery rates which all customers, even competitive supply customers, pay. This means that standard service is underpriced while utility distribution service is overpriced. Getting rid of this subsidy would level the playing field between standard service and competitive supply and while reducing everyone's delivery rates.

- **Use supplier billing as a vehicle for market improvement** – Last week Direct Energy expressed its support for making supplier consolidated billing available as an option. We raise it here to point out that the requirements that would attend the availability of supplier consolidated billing would also serve to improve the overall quality of supply options and increase the quality of regulatory oversight of the market. Suppliers using supplier consolidated billing would have to meet financial and operational standards, which would be set by the PURA, that would engender confidence on the part of the market as a whole but also on the part of the utilities, which would be trusting suppliers to bill, collect and remit moneys owed to them for delivery service. Rather than being seen as some favor to suppliers, supplier consolidated billing, if properly implemented, would constitute a large step toward rationalizing the overall market structure for the benefit of all market participants, especially customers.

Respectfully submitted,

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